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769-295 (ITW 13106)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Schneider and Ausnit	Art Unit:	3721
Serial No.:	**10/066,921**	Examiner:	John Sipos
Filed:	February 2, 2002	Customer No.	29540

For: **HORIZONTAL FORM FILL AND SEAL PACKING METHOD FOR RECLOSABLE BAGS**

TRANSMITTAL OF CORRECTED APPEAL BRIEF

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S I R:

Further to the Examiner's telephone call of December 2, 2004, enclosed is an original corrected brief to the Board of Patent Appeals and Interferences prepared in accordance with Rule 41.37. The original Appeal Brief was filed on or about October 25, 2004. Any fees may be charged to Deposit Account 50-1145, Order No. 769-295.

Respectfully submitted,

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CERTIFICATE OF TRANSMISSION

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Before the Board of Patent Appeals and Interferences

Application Serial No. 10/066,921

Filed: February 4, 2002

Art Unit: 3721

Examiner: John Sipos

HORIZONTAL FORM FILL AND SEAL PACKING METHOD FOR RECLOSABLE BAGS

Ex parte: John H. Schneider
Steven Ausnit

BRIEF FOR THE APPELLANTS

Pitney Hardin LLP
Attorneys for the Appellants

I. REAL PARTY IN INTEREST

The real party in interest is assignee Illinois Tool Works Inc.

II. RELATED APPEALS AND INTERFERENCES

None

III. STATUS OF CLAIMS

Claims 1-30 are rejected. The rejection of Claims 1-30 is being appealed.

IV. STATUS OF AMENDMENTS

No after-final amendments were filed in response to the final Office Action of May 28, 2004. The Notice of Appeal was filed August 23, 2004 with an apparent Office filing date of August 25, 2004.

V. SUMMARY OF CLAIMED SUBJECT MATTER

Independent Claim 1 claims a horizontal form-fill and seal machine (Fig. 1, element 10) for packaging consumer products (Fig. 1, element 35), said horizontal form-fill-and-seal machine comprising: means for providing a continuous length of packaging film ("means plus function", structure disclosed in Fig. 1, elements 12, 14, 16; page 3, lines 18-24) having two longitudinal edges (Fig. 1, elements 40, 42); means for placing said consumer products to be packaged at intervals along a first longitudinal half of said continuous length of packaging film ("means plus function", structure disclosed in Fig. 1, element 36; page 4, lines 6-8); means for feeding a continuous supply of zippers between a center of said continuous length of packaging film and

said consumer products ("means plus function", structure disclosed in Fig. 1, element 30; page 3, lines 25-28); means for folding said continuous length of packaging film down the center thereof whereby a second longitudinal half of said continuous length of packaging film is placed over upon said first longitudinal half of said continuous length of packaging film, said consumer products and said continuous supply of zippers ("means plus function", structure disclosed in Fig. 1, elements 17, 18; page 4, lines 8-13); means for sealing said continuous supply of zippers to said folded continuous length of packaging film ("means plus function", structure disclosed in Fig. 1, element 48; page 4, lines 20-22); means for sealing said longitudinal edges of said folded continuous length of packaging film to one another opposite to said film fold and opposite to said continuous supply of zippers ("means plus function", structure disclosed in Fig. 1, element 46; page 4, lines 15-17); and means for sealing said folded continuous length of packaging film crosswise at intervals between said consumer products to create individual packages ("means plus function", structure disclosed in Fig. 1, element 52; page 4, lines 23-28); wherein said means for folding, said means for sealing said continuous supply of zippers, and said means for sealing said longitudinal edges are downstream from said means for placing (Fig. 1).

Independent Claim 11 claims a method for packaging consumer products (Fig. 1, element 35) on a horizontal form-fill-and-seal machine (Fig. 1, element 10) comprising: providing a continuous length of packaging film (Fig. 1, elements 12, 14, 16; page 3, lines 18-24) having two longitudinal edges (Fig. 1, elements 40, 42); placing said consumer products to be packaged at intervals along a first half of said continuous length of packaging film (Fig. 1, element 36; page 4, lines 6-8); feeding a continuous supply of zippers between the center of said continuous length of packaging film and said consumer products (Fig. 1, element 30; page 3, lines 25-28);

folding said continuous length of packaging film continuously down the center thereof whereby a second longitudinal half of said continuous length of packaging film is placed over said first longitudinal half of said continuous length of packaging film, said consumer products and said continuous supply of zippers thereby creating a film fold (Fig. 1, elements 17, 18; page 4, lines 8-13); sealing said continuous supply of zippers to said folded continuous length of packaging film (Fig. 1, element 48; page 4, lines 20-22); sealing said longitudinal edges of folded continuous length of packaging film to one another opposite to said film fold and opposite to said continuous supply of zippers (Fig. 1, element 46; page 4, lines 15-17); sealing said folded continuous length of packaging film crosswise at intervals between said consumer products to create individual packages (Fig. 1, element 52; page 4, lines 23-28); wherein said steps of folding, sealing said continuous supply of zippers, and sealing said longitudinal edges are downstream from said step of placing (Fig. 1).

Independent Claim 21 claims an apparatus (Fig. 1, element 10) for packaging consumer products (Fig. 1, element 35), said apparatus comprising: a packaging film dispenser (Fig. 1, elements 12, 14, 16; page 3, lines 18-24) wherein said packaging dispenser provides a continuous length of packaging film from a packaging film supply; a product dispenser (Fig. 1, element 36; page 4, lines 6-8) wherein said product dispenser places consumer products to be packaged at intervals along a first longitudinal half of said continuous length of packaging film; a zipper supplier (Fig. 1, element 30; page 3, lines 25-28) wherein said zipper supplier feeds a continuous supply of zippers between a center of said continuous length of packaging film and said consumer products; a fold-guide ((Fig. 1, elements 17, 18; page 4, lines 8-13) wherein said fold-guide folds said continuous length of packaging film down the center thereof whereby a

second longitudinal half of said continuous length of packaging film is placed upon said first longitudinal half of said continuous length of packaging film, said consumer products and said continuous supply of zippers; a first sealing bar (Fig. 1, element 46; page 4, lines 15-17) wherein said sealing bar seals the longitudinal edges of said folded continuous length of packaging film to one another opposite to said film fold and opposite to said continuous supply of zippers; a second sealing bar wherein said second sealing bar seals said continuous supply of zippers to packaging film (Fig. 1, element 48; page 4, lines 20-22); and a heated cutter (Fig. 1, element 52; page 4, lines 23-28) wherein said heated cutter seals said folded continuous length of packaging film crosswise at intervals between said consumer products while separating an individual package from the apparatus; wherein said fold-guide and said first and second sealing bars are downstream from said product dispenser (Fig. 1).

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Are claims 1-30 patentable under 35 U.S.C. §103(a) in view of the Malin reference (U.S. Patent No. 6,185,907) in view of the Ausnit reference (U.S. Patent No. 4,876,842) or the Belmont reference (U.S. Patent No. 6,427,421)?

VII. ARGUMENTS

The Office Action rejected Claims 1-30 under 35 U.S.C. §103(a) as being obvious over the Malin reference (U.S. Patent No. 6,185,907) in view of the Ausnit reference (U.S. Patent No. 4,876,842) or the Belmont reference (U.S. Patent No. 6,427,421).

Claim 1 recites:

> "means for feeding a continuous supply of zippers between a center of said continuous length of packaging film and said consumer products;
>
> means for folding said continuous length of packaging film down the center thereof whereby a second longitudinal half of said continuous length of packaging film is placed over upon said first longitudinal half of said continuous length of packaging film, said consumer products and said continuous supply of zippers"

Similar language is found in independent Claims 11 and 21.

This is quite different from the Malin reference (the primary reference) wherein the continuous supply of zippers is fed to the longitudinal edges of the film rather than to "between a center of said continuous length of packaging film and said consumer products". More specifically, the Malin reference discloses "A zipper 38 ... is continuously fed and guided between the two overlapped lateral edges 34, 36 of the packaging film 12 from a supply reel 40" (col. 3, lines 13-17, emphasis added).

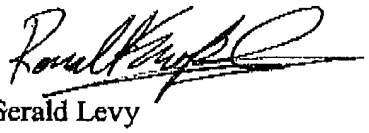
Just as the device disclosed in the Malin reference feeds and guides the zipper between the overlapped edges of the film and is totally different from the presently pending claims, the device disclosed in the Ausnit reference places the zipper along a side of package, apparently at

an approximate one quarter/three quarter location, rather than the presently claimed "between a center of said continuous length of packaging film and said consumer products".

The Belmont reference has a disclosure of a zipper-in-the-fold configuration in Figure 3c. However, col. 5, lines 50-65, clearly describes a sequence of steps wherein the fastener "should be sealed before filling the package with product". This is quite different from and inconsistent with the presently claimed "means for folding said continuous length of packaging film down the center thereof whereby a second longitudinal half of said continuous length of packaging film is placed over upon said first longitudinal half of said continuous length of packaging film, said consumer products and said continuous supply of zippers". The completely different sequence of the Belmont reference, in fact, would appear to teach away from any combination with the Malin or Ausnit references to obtain the presently claimed invention.

The Board is respectfully requested to find all of the presently pending claims to be allowable.

Respectfully submitted,



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VIII. APPENDIX OF PRESENTLY PENDING CLAIMS

1. A horizontal form-fill and seal machine for packaging consumer products, said horizontal form-fill-and-seal machine comprising:

means for providing a continuous length of packaging film having two longitudinal edges;

means for placing said consumer products to be packaged at intervals along a first longitudinal half of said continuous length of packaging film;

means for feeding a continuous supply of zippers between a center of said continuous length of packaging film and said consumer products;

means for folding said continuous length of packaging film down the center thereof whereby a second longitudinal half of said continuous length of packaging film is placed over upon said first longitudinal half of said continuous length of packaging film, said consumer products and said continuous supply of zippers;

means for sealing said continuous supply of zippers to said folded continuous length of packaging film;

means for sealing said longitudinal edges of said folded continuous length of packaging film to one another opposite to said film fold and opposite to said continuous supply of zippers; and

means for sealing said folded continuous length of packaging film crosswise at intervals between said consumer products to create individual packages;

wherein said means for folding, said means for sealing said continuous supply of zippers, and said means for sealing said longitudinal edges are downstream from said means for placing.

2. The horizontal form-fill-and seal-machine of claim 1, wherein said zipper feeding means feeds said continuous supply of zippers proximal to said film fold.

3. The horizontal form-fill-and-seal machine of claim 1, further including means for forming a weakness area proximal to the folded continuous length of packaging film thereby providing an area for opening the package.

4. The horizontal form-fill-and-seal machine of claim 3, further including means for forming a notch within the cross-sealed area of said packaging film thereby facilitating a removal of the packaging film along the weakness area.

5. The horizontal form-fill-and-seal machine of claim 1, wherein said continuous supply of zippers further includes attached sliders.

6. The horizontal form-fill-and-seal machine of claim 5, further including a means for providing a pair of end stops spaced at zipper lengths conforming to said individual packages such that the end stops retain the sliders on the zipper.

7. The horizontal form-fill-and-seal machine of claim 6, further comprising means for creating an aperture in the folded continuous length of packaging film exposing at least a slider portion of said zipper.

8. The horizontal form-fill-and-seal machine of claim 4 wherein said weakness area is a plurality of scored lines.

9. The horizontal form-fill-and-seal machine of claim 4 wherein said weakness area is a plurality of dimples.

10. The horizontal form-fill-and-seal machine of claim 4 wherein said weakness area is a plurality of perforations.

11. A method for packaging consumer products on a horizontal form-fill-and-seal machine comprising:

providing a continuous length of packaging film having two longitudinal edges;

placing said consumer products to be packaged at intervals along a first half of said continuous length of packaging film;

feeding a continuous supply of zippers between the center of said continuous length of packaging film and said consumer products;

folding said continuous length of packaging film continuously down the center thereof whereby a second longitudinal half of said continuous length of packaging film is placed over said first longitudinal half of said continuous length of packaging film, said consumer products and said continuous supply of zippers thereby creating a film fold;

sealing said continuous supply of zippers to said folded continuous length of packaging film;

sealing said longitudinal edges of folded continuous length of packaging film to one another opposite to said film fold and opposite to said continuous supply of zippers;

sealing said folded continuous length of packaging film crosswise at intervals between said consumer products to create individual packages;

wherein said steps of folding, sealing said continuous supply of zippers, and sealing said longitudinal edges are downstream from said step of placing.

12. The method in accordance with claim 11, wherein said continuous supply of zippers is fed proximal to said film fold.

13. The method in accordance with claim 11 further including the step of forming a weakness area proximal to the folded continuous length of packaging film thereby providing an area for opening the package.

14. The method in accordance with claim 13, further including the step of forming a notch within the cross-sealed area of said packaging film thereby facilitating a removal of the packaging film along the weakness area.

15. The method in accordance with claim 11, wherein said continuous supply of zippers further includes attached sliders.

16. The method in accordance with claim 15, further including the step of placing a pair of end stops at zipper lengths conforming to said individual packages such that the end stops retain the attached sliders on the zippers.

17. The method in accordance with claim 16, further including the step of creating an aperture in the folded continuous length of packaging film exposing at least a slider portion of said zipper.

18. The method in accordance with claim 14 wherein said weakness area is a plurality of scored lines.

19. The method in accordance with claim 14 wherein said weakness area is a plurality of dimples.

20. The method in accordance with claim 14, wherein said weakness area is a plurality of perforations.

21. An apparatus for packaging consumer products, said apparatus comprising:

a packaging film dispenser wherein said packaging dispenser provides a continuous length of packaging film from a packaging film supply;

a product dispenser wherein said product dispenser places consumer products to be packaged at intervals along a first longitudinal half of said continuous length of packaging film;

a zipper supplier wherein said zipper supplier feeds a continuous supply of zippers between a center of said continuous length of packaging film and said consumer products;

a fold-guide wherein said fold-guide folds said continuous length of packaging film down the center thereof whereby a second longitudinal half of said continuous length of packaging film is placed upon said first longitudinal half of said continuous length of packaging film, said consumer products and said continuous supply of zippers;

a first sealing bar wherein said sealing bar seals the longitudinal edges of said folded continuous length of packaging film to one another opposite to said film fold and opposite to said continuous supply of zippers;

a second sealing bar wherein said second sealing bar seals said continuous supply of zippers to packaging film; and

a heated cutter wherein said heated cutter seals said folded continuous length of packaging film crosswise at intervals between said consumer products while separating an individual package from the apparatus;

wherein said fold-guide and said first and second sealing bars are downstream from said product dispenser.

22. The apparatus in accordance with claim 21, wherein said zipper supplier feeds said continuous supply of zippers proximal to said film-fold.

23. The apparatus in accordance with claim 21, further comprising a weakening mechanism wherein said weakening mechanism forms a weakness area proximal to the folded continuous length of packaging film.

24. The apparatus in accordance with claim 23, wherein said heated cutter forms a notch within the cross-sealed area of said packaging film thereby facilitating removal of the packaging film along the weakness area.

25. The apparatus in accordance with claim 21, wherein said continuous supply of zippers further includes attached sliders.

26. The apparatus in accordance with claim 25, further including an end stop inserter for providing a pair of end stops spaced at zipper lengths conforming to said individual packages such that the end stops retain the sliders on the zipper.

27. The apparatus in accordance with claim 26, further comprising a cutting lip wherein said cutting lip creates an aperture in the folded continuous length of packaging film exposing at least a slider portion of said zipper.

28. The apparatus in accordance with claim 24 wherein said weakness area is a plurality of scored lines.

29. The apparatus in accordance with claim 24 wherein said weakness area is a plurality of dimples.

30. The apparatus in accordance with claim 24 wherein said weakness area is a plurality of perforations.